IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL WRIT PETITION NO. 3283 OF 2006.

Rangarao Shamrao Korane ..Petitioner
V/s
Registrar, Dr. D.Y.Patil
Dental College and
Hospital & Others ..Respondents

Mr. Mihir Desai for the petitioner
Shri R.V. Govilkar for resondent No.3
Shri Abhay Parab for respondent Nos. 1 and 2.
Shri R.D. Rane, GP for respondent No.4.

CORAM : B.H. MARLAPALLE &
J.H. BHATIA, JJ.

DATE : 1ST DECEMBER, 2006.

P.C.

. Heard Mr. Mihir Desai, the learned Counsel for the petitioner, Mr.Govilkar for respondent No.3 Mr. Rane, the learned GP for respondent, State of Maharashtra and Mr. Abhay Parab for respondent Nos. 1 and 2. Rule. The Respondents waive service. The petition is taken up for final hearing forthwith

2. The petitioner came to be employed as an Attendant under respondent No.1 Dental College on 1/9/1992. It appears that he was removed from service on or about 28/9/2001 and therefore, he had approached

the Labour Court at Thane by filing complaint (ULP) No. 430/2001 under Section 21A of the MRTU and PULP Act, 1971. The respondent employer filed an application at Exh. C-2 in the said complaint taking objection to the jurisdiction of the Labour Court, in view of the alternative remedy of appeal under the Maharashtra Universities Act, 1994. This application filed by employer was allowed and the Labour Court by its order dated 3/1/2003 held that it had no jurisdiction to try and entertain the complaint.

3. The petitioner then approached the Grievance Committee of the Maharashtra Health University and the Grievance Committee by its order dated 20/10/2003 informed the respondent No.1 College that its action of terminating the petitioner from service was not proper and that he was required to be reinstated. The college was further directed to submit compliance report within 15 days to the University. The respondent Nos. 1 and 2 did not respond, perhaps because the college became deemed university from 20th June, 2002. The respondent No.1 College become part of the Deemed University.

4. Mr. Desai has placed before us a copy of the

proposed amendment to be carried out in the petition memo and the same is hereby allowed. The petition memo be amended within one week.

5. As on 28/9/2001 when the petitioner was removed from service, the respondent No.1 College was affiliated to the Maharashtra Health University and therefore, the provisions of the Maharashtra Universities Act, 1994 were not applicable to it. The remedy of appeal under the Maharashtra Universities act, 1994 was not available to the petitioner. In addition on 3/1/2003 when the complaint was dismissed by the Labour Court, the respondent Nos. 1 and 2 had become a Deemed University and therefore, the respondent No.1 College ceased to be Affiliated to the Maharashtra Health University from June, 2002. Under these circumstances, the order of the Grievance Committee of the Maharashtra Health University passed on 20/10/2003 also becomes ineffective. The petitioner cannot be remediless, more so, he was working as an attendant in a private Dental College. It is well recognised now that running of such unaided Colleges is an occupation and therefore, undoubtedly the same College would be an Industry within the meaning of Section 2 (J) of the Industrial Disputes Act, 1947 and

therefore he would be a workman within the meaning of Section 2(s) of the said act. The Labour Court thus, wrongly recorded its conclusion that the petitioner had the remedy of appeal under the Maharashtra Universities Act, 1994 or to approach the Grievance Committee of the Maharashtra Health University. The view taken by the Labour Court in its order dated 3/1/2003,is unsustainable in law.

6. The said order is hereby quashed and set aside and Complaint (ULP) No. 430/2001 is hereby restored to the file of the 1st Labour Court, Thane. It is directed that the said complaint be heard and decided on its own merits and as expeditiously as possible and preferably before 30th June, 2007. The petition is partly allowed and Rule is made absolute in terms of the above directions. No costs.

7. Writ to go the respondents and the Labour Court forthwith.

(J.H. BHATIA, J.) **(B.H. MARLAPALLE, J.)**